

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ITOFFEE R. GAYLE

Plaintiff,

v.

HOME BOX OFFICE, INC, RACHEL STROM,
ADAM LAZIER, and STEVE SAPIENZA

Defendants.

Case No. 17-cv-5867 (JMF)

x

NOTICE OF MOTION TO DISMISS THE AMENDED COMPLAINT

PLEASE TAKE NOTICE that, upon the annexed Declaration of Rachel F. Strom, executed on September 15, 2017, and the exhibits annexed thereto, the accompanying Memorandum of Law and all pleadings herein, Defendant Home Box Office, Inc.¹ hereby moves before the Honorable Jesse M. Furman, United States District Judge, Southern District of New York, for an order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing the Amended Complaint in this action with prejudice.

¹ The caption to the Amended Complaint also names three other defendants – HBO's in-house counsel Steve Sapienza, as well as the undersigned, Rachel Strom and Adam Lazier. This appears to be an error, as the Amended Complaint contains no allegations against these additional defendants, and Plaintiff has not issued summonses for them or attempted to serve them. To the extent that the additional defendants are deemed to be parties to this case, however, this Motion is filed on behalf of all named defendants.

PLEASE TAKE FURTHER NOTICE that, opposition papers, if any, must be served and filed on or before October 16, 2017 in accordance with Rule 4(A) of the Court's Individual Rules and Practices in Civil *Pro Se* Cases.

Dated: September 15, 2017

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

By: /s/ Rachel F. Strom

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